REMARKS

The Official Action of February 21, 2007, has been carefully reviewed. Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

The claims under consideration are Claims 14-23.

1. Restriction Requirement

Under 35 U.S.C. 121 and 372, the Examiner required restriction among:

I. Group 1, Claims 14 part and Claims 15-20, drawn to a method of treatment or prevention of a disease associated with deposition of ABeta in the brain comprising administering to a patient a therapeutically effective amount of a growth hormone secretagogue and a compound which inhibits the secretion of ABeta;

II. Group II, Claims 14 in part and Claims 15-17 and 21-22, drawn to a method of treatment or prevention of a disease associated with deposition of ABeta in the brain comprising administering to a patient a therapeutically effective amount of a growth hormone secretagogue and a compound which selectively inhibits the secretion of the 1-42 isoform of ABeta;

III. Group III, Claims 14 in part and Claims 15-17, drawn to a method of treatment or prevention of a disease associated with deposition of ABeta in the brain comprising administering to a patient a therapeutically effective amount of a growth hormone secretagogue and a compound which inhibits the aggregation of ABeta;

IV. Group IV, Claims 14 in part and Claims 15-17, drawn to a method of treatment or prevention of a disease associated with deposition of ABeta in the brain comprising administering to a patient a therapeutically effective amount of a growth hormone secretagogue and an antibody which selectively binds to ABeta.

V. Group V, Claim 23 in part, drawn to a pharmaceutical composition comprising in a pharmaceutically acceptable carrier, a growth hormone secretagogue and a compound which inhibits the secretion of ABeta;

VI. Group VI, Claim 23 in part, drawn to a pharmaceutical composition comprising in a pharmaceutically acceptable carrier, a growth hormone secretagogue and a compound which selectively inhibits the secretion of the 1-42 isoform of ABeta; and

VII. Group VII, Claim 23 in part, drawn to a pharmaceutical composition comprising in a pharmaceutically acceptable carrier, a growth hormone secretagogue and a compound which inhibits the aggregation of ABeta.

In response to this requirement, the Applicants hereby elect Group I drawn to a method of treatment or prevention of a disease associated with deposition of ABeta in the brain comprising administering to a patient a therapeutically effective amount of a growth hormone secretagogue and a compound which inhibits the secretion of ABeta, with traverse.

The claims reading on this group are Claims 14-20.

Under 35 U.S.C. § 121, the Examiner further required election of a single species.

In response to this requirement, Applicants hereby provisionally elect a growth hormone secretagogue compound which is presented as the compound of formula I on page 10. Further in response to this requirement, Applicants hereby provisionally elect a compound which inhibits the secretion of ABeta which is presented as the compound of Claim 20 that is depicted as being of the formula XI(a) wherein M=0, X=Cl and Y=OH, with traverse.

The claims reading on these compounds are Claims 14-20.

Applicants respectfully request reconsideration and withdrawal of the foregoing requirements for restriction under 37 C.F.R. §1.143.

As stated in MPEP §803 there are two criteria for a proper requirement for restriction between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is not required.

As the Examiner noted, the designated Groups are patentably distinct as claimed. Applicants respectfully assert, however, that there will not be a serious burden on the Examiner if restriction is not required.

The ability to treat or prevent a disease associated with deposition of ABeta which is found among the compounds which are employed in accordance with the present invention provides unity of invention and a common link among the above-noted groups, thus facilitating examination.

Because no serious burden for examination is present if restriction is not required, Applicants respectfully request withdrawal of the requirement for restriction.

In the alternative, Applicants respectfully request that the Examiner apply procedures for the rejoinder of withdrawn pharmaceutical composition Claims 23 consistent with MPEP 821.04.

This election is being taken without prejudice to the filing of a divisional application directed to the non-elected subject matter. In accordance with the third sentence of 35 U.S.C. § 121, a patent issuing from the instant application should not be a reference against a divisional application filed before the issuance of such patent.

Any additional fees required in connection with this submission may be taken from Merck Deposit Account No. 13-2755.

Respectfully submitted,

By _____

J. Eric Thies
Reg. No. 35,382
Attorney for Applicant

MERCK & CO., Inc.
P.O. Box 2000
Rahway, New Jersey 07065-0907
(732) 594-3904

Date: March 21, 2007